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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,129	09/29/2003	Paul W. Kang	GP-303153	2491
7590	10/08/2004		EXAMINER	
LAURA C. HARGITT General Motors Corporation Legal Staff, Mail Code 482-C23-B21 P.O. Box 300 Detroit, MI 48265-3000			CHENEVERT, PAUL A	
			ART UNIT	PAPER NUMBER
			3612	
DATE MAILED: 10/08/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/674,129	KANG ET AL. <i>ST</i>	
	Examiner	Art Unit	
	Paul A. Chenevert	3612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 11 March 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1,2,6,9,10,12 and 16 is/are rejected.
- 7) Claim(s) 3-5,7,8,11 and 13-15 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 29 September 2003 is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>20040311</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to because the strikers (50) in Figures 3 & 4 are shown attached to the endgate (34) yet are described (paragraph 0013, lines 7-9) as being attached to the pickup truck endgate opening (44). It is thought that reference number 50 should be removed from Figure 3 and the reference number 50 in Figure 4 should be changed to 78A to indicate the latch.
2. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2, 6, & 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Botteeese.

Claim 1 includes an endgate in subcombination with a pickup truck having a cargo box.

Examiner observes the claims as a subcombination.

Botteeese discloses an endgate comprising: a lower portion (H) partially defining the endgate movable mounted to a truck for movement between an open position and a closed position; and an upper portion (H') hinged (see Figure 5) to the lower portion and further defining the endgate, the upper portion being selectively movable with respect to the lower portion to alter the height of the endgate when the lower portion is in the closed position to facilitate access to the cargo box. In regards to claim 9, the upper portion, having a surface, is capable of being moved to a horizontal position.

5. Claims 10 & 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Meinke. Meinke discloses a pickup truck (motor vehicle 10) having a cargo box (cargo body 14), the pickup truck comprising: two cargo box sidewalls (sides 14a) defining an endgate opening (tailgate opening 14c); an endgate (tailgate assembly 16) including a lower portion (panels 18 & 20) and an upper portion (extender assembly 32), the lower portion being pivotally mounted (pivot means 26) with respect to the two sidewalls at the endgate opening for movement between an open position and a closed position, and the upper portion being hingedly connected to the

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lower portion for movement between a first position (highest point in Figure 7) and a second position (lowest point in Figure 7); wherein the upper portion is adjacent to the lower portion and extending upward therefrom in the first position to result in a first endgate height, and wherein the upper portion in the second position is pivoted downward to result in a second endgate height less than the first endgate height.

6. Claim 16 is rejected under 35 U.S.C. 102(b) as being anticipated by Jeffers et al.

Claim 16 includes an endgate in subcombination with a pickup truck having a cargo box. Examiner observes the claims as a combination.

Jeffers et al. disclose an endgate for a pickup truck (10) having a cargo box, the endgate comprising: a lower portion (tailgate 12) partially defining the endgate and pivotably mountable with respect to the pickup truck for movement between an open position and a closed position; a hinge (32); an upper portion (drop down top center door 11) pivotably connected to the lower portion by the hinge and further defining the endgate, the upper portion being selectively pivotable with respect to the lower portion between a first position in which the center of the endgate is characterized by a first height and second position in which the center of the endgate is characterized by a second height different from the first height to facilitate access to the cargo box; and a striker (piston locks 36a) mounted to the upper portion and a latch (receptacles 30a & 30b) mounted on the lower portion and engageable with the striker for selectively rigidly connecting the upper portion to the lower portion.

Allowable Subject Matter

7. Claims 3-5, 7, 8, 11, & 13-15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
8. The following is a statement of reasons for the indication of allowable subject matter: the prior art does not show or make obvious Applicant's

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul A. Chenevert whose telephone number is 703-305-0837. The examiner can normally be reached on Mon-Fri (8:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn D. Dayoan can be reached on 703-308-3102. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Paul A. Chenevert
Examiner
Art Unit 3612

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D GLENN DAYOAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600